

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 26TH MARCH 2007 / 5TH CHAITHRA 1929

WP(C).No. 7603 of 2005(E)

PETITIONER:

- 1. SATHEESH KUMAR.T.R., S/O.
A.G.RAMAKRISHNAN NAIR, AGED 39 YEARS, R/AT THANNI-
YIL(H), THALAPALAM,PLASSANAL P.O.,NOW EMPLOYED
AS PEON (HIGHER GRADE) ELI SECTION, EXAMINATION
BRANCH, MAHATMA GANDHI UNIVERSITY, KOTTAYAM
DISTRICT.**
- 2. DILEEP KUMAR M.P., S/O.K.M.PAPPAN,
AGED 36 YEARS, R/AT MARUTHAMIYIL (H), PONKUNAM
P.O., KOTTAYAM DISTRICT NOW EMPLOYED AS CLERIAL
ASSISTANT (M.G.UNIVERSITY EXAM THAPPAL),
M.G.UNIVERSITY, KOTTAYAM DISTRICT.**
- 3. V.J.SCARIA, S/O.V.V.JOSEPH,
AGED 52 YEARS, R/AT VATAKEL, CHERUVANDOOR,
ETTUMANOOR NOW EMPLOYED AS LAB ASSISTANT,
EXAMINATION DEPARTMENT MONITORING CELL II,
M.G.UNIVERSITY, KOTTAYAM DISTRICT.**
- 4. RAFIA BEEVI, W/O.IBRAHIM KUTTY,
AGED 45 YEARS, R/AT VATAKETAM (H), AATHIRAMPUZHA
P.O., NOW EMPLOYED AS LAB ASSISTANT EJI
REVALUATION SECTION, M.G.UNIVERSITY,
KOTTAYAM DISTRICT.**
- 5. SHYLAJA K.K., W/O.BABU K.K.,
AGED 37 YERAS, R/AT MOUNJULLINALLY,
PERUMPAKAD P.O., M.G.UNIVERSITY PRO,
NOW EMPLOYED AS PEON, PRO SECTION, M.G.UNIVERSITY,
KOTTAYAM DISTRICT.**
- 6. SUSAN CHACKO, D/O.P.M.ABRAHAM,
AGED 34 YEARS, R/AT PLAMKOOTTATHIL (H),
PARIYARAM P.O., KOTTAYAM NOW EMPLOYED AS
PEON, PR VI SECTION, M.G.UNIVERSITY,
KOTTAYAM DISTRICT.**
- 7. ISSAC P.J., S/O.JOSEPH,
AGED 34 YEARS, R/AT PANAMPALLIL,
KOOVAPPALY P.O., THODUPUZHA, IDUKKI DISTRICT
NOW EMPLOYED AS PEON IN FO SECTION,
M.G.UNIVERSITY, KOTTAYAM DISTRICT.**

BY ADV. SRI.TOM JOSE

W.P.(C) NO.7603/2005

RESPONDENTS:

- 1. THE MAHATMA GANDHI UNIVERSITY
R/BY ITS REGISTRAR, ATHIRAMPUZHA,
KOTTAYAM.**
- 2. THE VICE-CHANCELLOR, M.G.UNIVERSITY,
ATHIRAMPUZHA, KOTTAYAM.**
- 3. THE SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

BY ADV. SRI.V.A.MUHAMMED, SC, M.G.UNIVERSITY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26/06/2006, THE COURT ON 26.03.2007 DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**EXT.P1:- COPY OF THE RANK LIST FOR THE APPOINTMENT OF PEONS
M.G.UNIVERSITY PUBLISHED ON 4.11.92.**

**EXT.P2:- COPY OF THE JUDGMENT AND CONNECTED ORIGINAL PETITIONS OF THIS
HONOURABLE COURT DT.11.2.97 IN OP. NO.924/95.**

**EXT.P3:- COPY OF THE COMMON SENIORITY LIST OF CLASS IV EMPLOYEES
APPROVED AND PUBLISHED BY THE 1ST RESPON WITH A CIRCULAR DT.9.9.97.**

**EXT.P4:- COPY OF THE SANCTION ORDER OF THE REVISION OF SCALE OF PAY OF LAB
ATTENDERS DT.3.10.01.**

**EXT.P5:- COPY OF THE APPOINTMENT ORDER ISSEUD BY THE 1ST RESPONDENT
SANCTIONING APPOINTMENT OF THE EMPLOYMENT HANDS ON A PROVISIONAL
BASIS DT.12.2.02.**

**EXT.P6:- COPY OF THE SANCTIONED ORDERS OF FIXATION OF PAY OF 2 LAB
ATTENDERS DT.8.10.04.**

**EXT.P7:- COPY OF THE ORDER OF THE 1ST RESPONDENT DT.10.12.03 RE-FIXING PAY
OF FICE LABORATORY ASSISTANTS.**

**EXT.P8:- COPY OF THE ORDER OF THE 2ND RESPONDENT GRANTING REVISED SCALE
OF PAY TO THE FOUR FIELD WORKERS IN THE SCHOOL OF BEHAVIORAL SCIENCES
DT.17.12.04.**

**EXT.P9:- COPY OF THE ORDER GRANTING MONETARY BENEFITS IN THE SCALE OF
ASST.GRADE II AND ASST.GRADE I AS GRANTED TO ONE K.C.DEVASIA STORE
ASSISTANT DT.31.12.04.**

**EXT.P10:- COPY OF THE JUDGMENT DT.17.8.04 IN WPC. NO.20609/04 OF THIS
HONOURABLE COURT.**

**EXT.11:- COPY OF THE REPRESENTATION DT.3.12.04 SEEKING EXTENSION OF BENEFITS
OF EXT.P2 JUDGMENT OF THIS HONOURABLE COURT AND OTHER CONSEQUENTIAL
RELEIFS PREFERRED BY 4 INCUMBENTS.**

EXT.12:- COPY OF THE REPRESENTATION DT.29.12.04 PREFERRED BY 8 INCUMBENTS.

**EXT.13:- COPY OF THE UNJUST NOTIFICATION ISSUED BY THE 1ST RESPONDENT
DT.13.12.04 INVITING APPLICATIONS TO THE PROMOTION POST OF THE PETITIONERS
AND SIMILARLY PLACED INCUMBENTS ISSUED IN VIOLATION OF EXT.P2 JUDGMENT
OF THIS HONOURABLE COURT.**

**EXT.14:- COPY OF THE MASS MEMORANDUM/REPRESENTATION PREFERRED BY THE
PETITIONERS AND 120 OTHER SIMILARLY PLACED EMPLOYEES DT.18.1.05 OF
M.G.UNIVERSITY ADDRESSED TO THE 1ST RESPONDENT.**

K.M.JOSEPH, J

WP.(C) No. 7603 OF 2005

Dated this the 26th day of March, 2007.

JUDGMENT

The complaint of the petitioners are as follows:

They were Class IV employees. They rely on Ext.P2 judgment of this court. The court had declared that they are entitled to be considered for promotion to the post of Laboratory Assistants, Clerical Assistants and Ronio Operators. The court directed preparation of a seniority list. Ext,P3 is the impugned seniority list. It is stated that the petitioners were initially paid in the scale of pay of Rs.775-12-955-14-1025-20-1065 and at present are being paid in the scale of pay of Rs.2610-60-3150-65-3540-70-3680. As per Ext.P4 the Lab Attenders who are similarly placed as the petitioners are at present enjoying a higher scale of pay of Rs.2750-70-3800-75-4625 from 24.3.2001 onwards.

2. Petitioners seek a declaration that the petitioners are entitled to be promoted as Assistant Grade II in compliance of Ext.P3 seniority list and as declared in Ext.P2 judgment with retrospective

effect based on the cut off date. They also seek a mandamus declaring that they and all other employees included in Ext.P3 seniority list are entitled to be promoted to the post of Laboratory Assistants, Clerical Assistants and Ronio Operators in Assistant Grade II with retrospective effect on parity with similarly placed junior hands, who enjoyed the benefits vide Exts.P4 to P10 orders. They seek to quash Ext.P13 notification till the petitioners and similar incumbents in Ext.P3 seniority list are promoted as Assistant Grade II with higher scale of pay with retrospective effect. Ext.P13 is the notification issued inviting applications for preparation of a rank list for appointment as Assistant Grade II. It provides for selection to be made on the basis of written test to be conducted by the University. As far as Ext.P2 judgment is concerned, it declares right of Class IV employees to be promoted to the post of Laboratory Assistants, Clerical Assistants and Ronio Operators . There is no right granted under Ext.P2 in regard to the post of Assistant Grade II. No doubt, they have a case that there is a denial of promotion to the petitioners and other similarly placed employees for the past 10 to 20 years and it is against the directions contained in

Ext.P2. It is stated that Ext.P13 is the deliberate attempt to prevent promotion to the petitioners who are holding the same post for more than 10 to 20 years. They would contend that they are entitled to the benefit of promotion and higher scales of pay as directed by the court in Ext.P2 judgment. It is stated that they filed Exts.P11, P12 and P14 representations.

3. In the counter affidavit filed, there is denial of the allegations in the writ petition. It is stated that for promotion of qualified Clerical Assistants to Assistant Grade II the University is following the practice in the Kerala University, which has prescribed norms and eligibility test for promotion of qualified Clerical Assistants as Assistant Grade II. It is stated that higher grade promotions were given to Laboratory Assistants as per norms. The post of Assistant Grade II is stated to be an entry post, to which appointments are made directly after issuing proper notification and conducting test and interview. It is stated that petitioners were not included in the rank list of Class IV employees in 1989 as they were not eligible on the basis of their performance in the selection process and the petitioners have filed Ext.P14.

The writ petition is disposed of directing the first respondent to consider and take a decision on Ext.P14 in accordance with law within a period of two months from the date of receipt of a copy of this judgment.

(K.M. JOSEPH, JUDGE)

sb

K.M.JOSEPH, JJ.

W.A. No. OF

JUDGMENT

Dated this the day of February, 2006.

